



## Maryland State Board of Education

---

200 WEST BALTIMORE ST. / BALTIMORE, MD 21201-2595 / (410) 767-0467

January 19, 2021

Honorable Brian E. Frosh  
Maryland Attorney General  
200 St. Paul Place  
Baltimore, Maryland 21202  
opinions@oag.state.md.us

RE: Request for Formal Opinion of the Attorney General  
Term of the State Superintendent of Schools

Dear Attorney General Frosh:

On behalf of the Maryland State Board of Education (State Board), I am requesting an Opinion of the Maryland Attorney General whether the State Board can offer a new State Superintendent of Schools a full four-year term beginning July 1, 2021, instead of the remaining three-years of the current State Superintendent's four-year term that began July 1, 2020.

We are requesting an Opinion because our understanding is that under Education Article §2-302 the term of the State Superintendent runs with the office and not the officer, and because the current State Superintendent began a new four-year term on July 1, 2020, her successor—who is expected to begin on July 1, 2021- cannot receive a full four-year term, but must complete the remaining time on her term.

We understand that Education Article §2-302(a) sets out that the State Board appoints a Superintendent for a 4 year term with a fixed term beginning on July 1, and serves until a successor is appointed and qualifies. The vacancy section in Education Article §2-302(e) sets out "that upon a vacancy the Board shall fill the vacancy for the remainder of the unexpired term."

We are requesting the Attorney General to consider whether current law allows the State Board to offer a regular four-year term to the new superintendent to begin on July 1, 2021, so as not to undermine our ability to attract the best candidates for the position. We believe a regular four-year term should be permitted under the law because of the unique circumstances we encountered during the state of emergency.

First, the State Board extended the current State Superintendent's tenure into a new four-year term beginning on July 1, 2020 because of the unprecedented COVID-19 pandemic and state of emergency declared by Governor Hogan on March 5, 2020. Our decision has paid immediate dividends! Throughout the state of emergency, the State Superintendent worked closely with Governor Hogan and his office, the State Health Department, all of the local school systems, and state superintendents across the nation, to ensure continuity of elementary and secondary education and provision of childcare. Importantly, she provided stable leadership to the MSDE and State Board during this extraordinary period.

Second, due to the added COVID-19 demands on state education systems, our executive search firm has alerted us to expect a highly competitive search environment with potentially more than the usual six to seven concurrent state superintendent vacancies, as well as a number of local school district superintendent opportunities. Most of these state boards will be seeking superintendent candidates with very similar qualifications, and top candidates tend to favor longer employment terms, especially if it involves relocating to another state.

Third, Maryland's next superintendent must be an exceptional educational executive leader because our State, like other states, is facing the biggest education crisis in the last 100 years due to COVID-19's fourteen-month severe disruption of student learning. It will take new ideas, broader stakeholder collaborations, and a multiyear effort to overcome the learning loss. If we fail to rise to the occasion, many students may have to live with the effects of their learning loss for a lifetime. Those losses will be manifested in lower individual and family wages, and corresponding societal consequences.

Fourth, if Maryland fails to accelerate learning in the wake of COVID-19, we will pay a steep economic cost. Economists have warned that states could witness a significant drop in GDP and decreased competitiveness in their ability to attract and maintain high paying industries if they fail to address this learning loss.

For the above reasons, we believe there must be flexibility in the law to allow the State Board to extend a full four-year term to the new superintendent. If current law does not give such flexibility, can you suggest legislative language that permits the State Board to offer a new full term to a superintendent hired in the middle of a term?

Please contact our counsel Elliott Schoen or me at the State Board office if you have additional questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CC Crawford', with a long horizontal flourish extending to the right.

Clarence C. Crawford  
President, Maryland State Board of Education